IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

WP(C).No. 16847 of 2006(E)

C.M.A.NO.97/03 OF DISTRICT COURT, TRIVANDRUM.
I.A.6879/2000 IN OS.1414/2000 of I ADDL.M.C.,TRIVANDRUM

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PETITIONER:

PREMAKUAMRAN NAIR, S/O. BHASKARAN NAIR,
SUBHA VILASOM, KUNNATHU MURI,
CHERUVIKKAL VILLAGE, NOW RESIDING AT
SREE VISAK, THIRUVAIKKAL P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.D.KISHORE

RESPONDENTS:

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1. RAVINDRAN NAIR, S/O. BALAKRISHNA PILLAI
PUTHIYA VEEDU, THIRUVAIKKAL P.O.,
KUNNATHU MURI, CHERUVAIKKAL VILLAGE,
THIRUVANANTHAPURAM.

2. GOPINATHAN NAIR, S/O. KESAVAN KUTTY,
DOCUMENT WRITER, ALENCHERRY VEEDU,
CHERUVAIKKAL, SREEKARIYAM P.O.,
SADASIVAN NAIR MEMORIAL DOCUMENT WRITERS,
NEAR PATTOM SRO, MUTTADA, THIRUVANANTHAPURAM.

3. VIKRAMAN NAIR, S/O. APPU PILLAI,
MELEPUTHIYA VEEDU, THURUVAIKKAL P.O.,
TRIVANDRUM.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.16847/06

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF ORDER IN I.A.6879/00 IN O.S.1414/00 OF MUNSIFF, TRIVANDRUM.

EXT.P2 – TRUE COPY OF REPORT SUBMITTED BY ADV.COMMR. IN O.S.1414/00

EXT.P3 – TRUE COPY OF ORDER IN EXT.P1 I.A. & I.A.8158/02

EXT.P4 – TRUE COPY OF ORDER DT.20.2.06 OF DIST. COURT, TRIVANDRUM

EXT.P5 – TRUE COPY OF ORDER DT.7.7.03 IN I.A.1866/03 IN CMA.97/03 OF DIST. COURT.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.16847 OF 2006

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DATED THIS THE 29TH JUNE, 2007

J U D G M E N T

Heard the counsel for the petitioner. There is no appearance for the respondents even though they have been served with notice.

2. The petitioner, plaintiff in a suit for injunction is aggrieved by Ext.P3 common order passed by the learned Munsiff and also by Ext.P4 judgment passed by the learned District Judge confirming Ext.P3. An order of temporary injunction had been passed ex parte by the learned Munsiff on the application for temporary injunction, I.A.No.6879 of 2000. The petitioner filed I.A.No.8158 of 2002 seeking appropriate directions to the police officer concerned for enforcing the above order of temporary injunction. The learned Munsiff posted I.A.8158 of 2002 to 5.11.2002. The parties were heard on that day and the application was posted to 6.11.2002. On 6.11.2002 what the learned Munsiff did was to dismiss I.A.No.8158 of 2002 on which the parties had been heard and to suo motu advance I.A.No.6879 of 2000, the application for temporary injunction in which the respondents had not even filed their counter affidavit and to dismiss that I.A. also. Ext.P3 common order passed by the learned Munsiff is a very lengthy one and has been rightly described by the learned District Judge as "couched in a

perverse and unintelligible manner. The learned counsel is certainly right in his submission that it was highly inappropriate on the part of the learned Munsiff to have suo motu advanced the consideration of the injunction application, after arguments had been heard on the enforcement application and when that application alone is posted for orders, and dismissed the injunction application simultaneously. But, at the same time, it cannot be said that the reasons stated by the learned District Judge for confirming the ultimate decision taken by the learned Munsiff are unreasonable. At any rate, Ext.P4 judgment of the learned District Judge cannot be said to be vitiated to such an extent as to warrant correction under the supervisory jurisdiction of this Court. I am not inclined to set aside Ext.P4.

3. I direct the learned Munsiff to expedite trial and final disposal of the suit. The learned Munsiff shall not be influenced by any of the observations contained in Ext.P3 or Ext.P4 regarding the merits of the matter while taking decision in the suit. Decision in the suit shall be taken only on the basis of the evidence which comes on record at trial. The parties will maintain status quo obtaining as of now till the suit is finally disposed of. The Writ Petition is disposed of as above.

tgl **(PIUS C.KURIAKOSE, JUDGE)**

tgl